

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ALASKA

UNITED STATES OF AMERICA,

Plaintiff,

vs.

JAY ALLEN JOHNSON,

Defendant.

Case No. 4:21-CR-00019-RRB-SAO

SENTENCING MEMORANDUM

I certify this document and its attachments do not contain the (1) name of a victim of a sexual offense listed in AS 12.61.140 or (2) residence or business address or telephone number of a victim of or witness to any offense unless it is an address identifying the place of a crime or an address or telephone number in a transcript of a court proceeding and disclosure of the information was ordered by the court.

Defendant Jay Allen Johnson comes before this Court to take responsibility for threatening to murder two United States Senators. He has agreed to forfeit seven firearms that were found in his home where he lives with his wife, who is not barred from possessing firearms. Mr. Johnson does not deny that he engaged in the conduct for which he was convicted. He did not file motions seeking to minimize his conduct. He fully participated in the preparation of his presentence report, which he refers to in this memorandum.

Mr. Johnson is 65 years old. He had a difficult childhood. He raised one son as a single parent until he turned 17, and that son is currently a major in search and rescue at the Alaska Air National Guard. He has been married to his wife for seven years and lives in Delta Junction, Alaska where he wishes to return upon his release.

Mr. Johnson's health is poor. He has osteoarthritis in his wrists and ankles, had two prior hernia surgeries, two prior knee surgeries (meniscus repair, removal of cartilage, bilateral release), a prior back surgery (shave discs and deflate sciatic nerve), and a July 2021 shoulder

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surgery (bone spurs removed, cartilage removed, end of collar bone removed, cut upper bicep, and reattach tendons). He was prescribed hydrocodone, a “pain ball,” and Ibuprofen following his shoulder surgery. He is currently prescribed Meloxicam and was previously taking 2,400 mg of Advil per day (normal dose is half that), but his blood pressure increased so he is now taking 1,200 mg of Tylenol per day (750 mg is the normal dose). Mr. Johnson was supposed to do physical therapy for his shoulder, but was incarcerated months after the surgery.

Mr. Johnson has been diagnosed as having Other Acute Otitis (infection of the middle ear), osteoarthritis in his shoulder, benign essential hypertension, tear film insufficiency (insufficient tear production), heartburn, hemorrhoids, and acute pain. He has been prescribed Acetaminophen, Lisiniprol, and Meloxicam. He has also been diagnosed with posttraumatic stress disorder (from his turbulent childhood) and anxiety disorder. He is interested in mental health counseling. After Mr. Johnson retired at the age of 55 with the health problems listed above, his drinking increased. He did not use any illegal substances – only medications that were prescribed.

Mr. Johnson has worked his whole life, mostly in physical labor. He has reached an age where he can no longer engage in physical labor. He is of limited means, but also is frugal and able to live a reasonable life on his savings and retirement. He does not have money to spare.

Mr. Johnson does not even begin to argue that his conduct is not serious. While his conduct consisted of words, those words did place fear into two of our most revered public servants here in Alaska. While Mr. Johnson knew he would never act on his threats (and given his physical condition, could never have acted on his threats), the victims did not know that. Security measures needed to be taken. Mr. Johnson recognizes that his victims were simply doing the job as they saw fit, and he had no right to threaten them the way he did.

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On the other hand, this is also not who he is. Between the prescribed narcotics, pain, and self-medicating, Mr. Johnson was not himself. Add to this the heightened turmoil in this country and the world as a result of the pandemic, and hopefully the Court can see that at least some of Mr. Johnson's behavior was due to medications prescribed for pain, alcohol that he used to further treat pain, and isolation that was unusually prevalent during the summer of 2021 as a result of the pandemic.

When Mr. Johnson accepted the plea agreement, he thought he was agreeing to an offense level of 19. This offense level carries an imprisonment range of 30-37 months. He only learned that his offense level was 20 and he was subject to a range of 33 to 41 months after receiving the presentence report. Mr. Johnson objected to the offense level of 20 because that was not what he agreed to. On the other hand, it would appear that the probation office is willing to agree to a minimum sentence of 33 months under an offense level of 20, which Mr. Johnson does appreciate.

Incarceration has been, and will continue to be, very difficult and dangerous for Mr. Johnson given his age, physical condition, and PTSD diagnosis. There has already been a few bail hearings in which Mr. Johnson's high blood pressure was a concern. He has lived in relative isolation over the past few years, in part because of where he lives, and in part because of the pandemic. In jail under pandemic conditions, he has described extreme overcrowding and absolutely no privacy. Mr. Johnson has thus far done hard time with no ability for release. He has had no violations while incarcerated. He asks that the Court consider this in imposing his sentence. He either requests the minimum 30 months under a level 19, or a deviation based on Part F. of the presentence report because of his limited education and lengthy employment history, along with his very minimal history of imprisonment and lack of history of violating probation.

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The probation office has recommended a \$5,000 fine. Mr. Johnson is retired. He has limited assets and a very limited income. He is in poor health and cannot return to work. He has worked most of his life in physical labor and he is paying for that in his retirement. While Mr. Johnson appreciates that the probation office recommends a deviation from the minimum fine, even a fine of \$5,000 would be a hardship for Mr. Johnson. Mr. Johnson respectfully requests that the Court waive the fine under the circumstances, considering the deviation considerations in Part F of the presentence report.

Fortunately, no one was physically hurt by Mr. Johnson. There was never any chance that anyone was going to be physically hurt by Mr. Johnson. His actions did not take place in a vacuum, and were not fueled by illegal narcotics or even illegal motives. They were the product of pain, prescription medications, and self-medication through alcohol legally obtained. Weapons found in his home were legal for one occupant to possess, but not the other. Mr. Johnson has readily taken full responsibility for his actions, has already served several months in jail under difficult conditions, and has accepted that he will need to spend more time under his sentence. If anything, Mr. Johnson could use supervision, not continued incarceration. Thus, supervised release for three years could be an option instead of prolonged incarceration.

Mr. Johnson has absolutely learned from this experience. He has learned that even words can do damage when used in the wrong context. He has learned that words can create unnecessary fear in the hearts of public servants and their families, and that threatening public servants when they are carrying out their duties as they see fit is wrong. He is ready to rejoin society, his wife, and family again. He has letters from his son, his wife, and his brother which are attached to this sentencing memorandum. All three loved ones are expected to speak at his sentencing. Mr. Johnson is loved and is needed in this world. Mr. Johnson pleads for mercy and

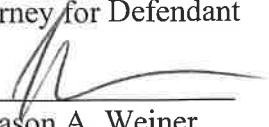
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understanding from this Court and the United States Government so that he may once again return to society as a productive citizen.

Dated: April 1, 2022.

JASON WEINER & ASSOCIATES, PC

Attorney for Defendant

By: 

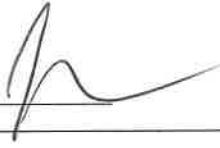
Jason A. Weiner

ABA No. 9906031

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was provided via E-mail courier hand-delivery to the following:

Ryan Tansey
Ryan.Tansey@usdoj.gov

Dated: 4/1/2022 By: 

**JASON WEINER
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Heather Olson

From: jeremiah johnson <naviguess@gmail.com>
Sent: Tuesday, December 28, 2021 8:59 PM
To: Heather Olson
Cc: tjsmetalart@yahoo.com
Subject: letter for Jay Johnson
Attachments: To members of the Court.docx

Mr. Holson,

My name is Jeremiah J Johnson the son of Jay. Enclosed is a letter of me speaking to his character. I focused on all the good he has done in my life as opposed to focusing on any of the negative that has transpired.

feel free to call me with any questions

day or night

warm regards,
Jeremiah J Johnson
907-378-8518

I am in Fairbanks until the 1st of January
Also if I am allowed to be at the arraignment I would be happy to be there to support him.

To members of the Court:

My name is Jeremiah Jason Johnson. I am the only child of Jay Allen Johnson. In my 42 years of life and 24 years of military service, I can safely say that my can-do attitude and work ethic came from my Father. He taught me things like any job worth doing; it is worth doing right no matter how long it takes. He instilled a sense of honor and integrity that carries me through my career today. Growing up, my Dad was not the straightest arrow when it came to following the rules, but he taught me right from wrong and supported me when I made mistakes. Trust me, I made my fair share of errors. I got arrested for driving without a license at 14; my Dad said, "guess you're going to have to wait on the driver's license now." I wrecked every vehicle I owned from the age of 16-18; not once did my dad offer to pay for the repairs, but he did take time out of his day to drive me to work so that I could make money to make the repairs.

As I grew in life and found a loving wife, my Dad told me to make sure I do it right and learn from my mistake and move on. He told me to provide for my family and never miss an opportunity for a laugh. I grew up an only child in a blue-collar, working-class home. I now am the proud father of 4 exceptional children. My Father Jay has never missed a grand kid's birthday (which I cannot remember half the time.) He takes the time to write a letter and send a card every year. My Father's sacrifices for me growing up allowed me to make decisions that were not available to him as a youth. My Dad ensured that I was given every opportunity to excel in a challenging world. Jay spent a lifetime working on the north slope doing manual labor that most 20-year-olds cannot even hope to do. With a lifetime of Manual labor comes a lifetime of pain. When I left home at 18, his parting words were, "you're a smart kid; use your mind to make your way and not your body." Of course, I looked up to and emulated my Father and got a job in the Air Force as a jet mechanic. My Father was pleased I chose to serve my country but reiterated to never stop challenging myself. Taking risks and challenging myself is now what I do daily. I currently work for the Alaska Air National Guard flying search and rescue in Alaska, helping others in need.

Jay Johnson was not the perfect Father (who is?), but he was my Father. He made me the man I am today, a loving husband and Father, A Major in the Air Force, and a small business owner in Anchorage all while raising our children in the Catholic faith.

I've seen combat, I've watched my friends bleed out in front of me, I have beaten un winnable odds to come home to my family (because my Father said to provide for my family and do the job right.) This letter is one of the hardest things I have ever had to do in my life if you can believe that? A good man doesn't fight because he hates what's in front of him; he fights because he loves what's behind him. My Dad has a big heart (and sometimes a big mouth, for better or worse). My Father made me the loving, caring hard-working man I am today. Do I think my Dad has made some poor choices? Sure, who hasn't? MORE IMPORTANTLY, do I think he is a danger to society or my children and wife? Emphatically no! Dad, We love you; the wife and I will do everything in our bodies and souls to assist you through this. We all love and miss you, "Pops" no matter what comes out of this, we will continue to pray, write, and patiently await your return to us.

Your Loving Son,

Major Jeremiah Jason Johnson

United States Air Force

Heather Olson

From: Catherine Pousson <alaskafresh1@yahoo.com>
Sent: Wednesday, December 29, 2021 6:41 AM
To: Heather Olson
Subject: Jay A Johnson Letter

I am Elizabeth. Ann Cornell. Date of birth. January 11 1942.

Jay a Johnson date of birth. August 18. 1956.

He made a very stupid decision to get intoxicated and run his mouth with threats that would never. Ever do when sober. They were dealing with a death in family already and in severe pain from extensive shoulder surgery. He is a very good son with a kind loving heart not so. me one that's just going to start shooting people. Quite the opposite go help someone when they need help. He is still in a lot of pain from His extensive surgery, still do therapy then, and little he can do. In that environment He would never plan out and hurt anyone intentionally.

He just made a very stupid mistake getting intoxicated and threatening people.

He would never carry out or do such a thing.

He doesn't even go deer or moose hunting because he can't shoot them.

He couldn't or wouldn't do bodily harm to anyone.

I have several health issues that requires me to need assistance with several things now. i have fibromyalgia, severe arthritis in my hands, feet, and knees. i also have cold and require oxygen at night. My income does not allow me to pay for a lot of outside help.

I could certainly use his help with taking care of things for me if you could possibly see your way to grant him some leniency to help me. I would greatly appreciate it

My husband passed away in July. Last year. And my health is going downhill since then

I know in a stupid drunken moment he did. Dumb threats that he would never even consider doing in real life.

Threatening other peoples lives is never to be taken lightly. Under any circumstances.

He could not. Would not ever in any circumstances do such a thing. Period.

If you could possibly show some leniency I would deeply appreciate it from bottom of my heart.

Thank you very much

Elizabeth a Cornell.

Sent from Yahoo Mail on Android

Heather Olson

From: Yahoo <tjsmetalart@yahoo.com>
Sent: Wednesday, December 29, 2021 9:19 AM
To: Heather Olson
Subject: Re: Jason Weiner and Associates RE Jay

Here is my attempt ro write a letter of recommendation i do not have word or any program to format this so can you proofread it and put it in the right format for me Thanks Travis. To the Court and whom it concerns. My Brother Jay has been a hardworking, and honest man his entire life. He has been a loving father and grandfather to his kids and grandkids. He has always been supportive of me and there to help me when i needed help as a brother. We have both worked 40 + years in the construction industry and have destroyed our bodies and health to take care of our family's and do what's right. And with that comes a lifetime of daily pain and suffering that most people today cannot tolerate. My brother was doing good until this shoulder surgery took place and started trying to deal with the pain by mixing alcohol with the pain pills. And as we can see it did not turn out well. That being said he was not in the right frame of mind when he made the threatening phone calls and does not even remember what he said. Anyone who was thinking clearly would not have left messages on a recorded line. He is not a threat to anyone and is not physically capable of hurting anyone. I believe some of the blame for this is our government and there covid 19 lockdowns and restrictions on everyone. The covid 19 pandemic triggered a mental health crisis that experts say the US may have to deal with for years. As Americans lost their loved ones, their jobs and their health to covid 19, various reports showed a steady rise in anxiety, depression and substance abuse disorders. And a lot of people like my brother are having trouble coping with the overwhelming problems they are facing every day. What he did and said was wrong and would of never happened if he was not under the influence of alcohol and pain pills. That being said it should not be a death sentence for my brother to be put in prison for having problems. My brother's health is not that good, and I am asking for the court to show some compassion and help my brother get some help not give him a death sentence that he will not survive sincerely Travis Johnson. Owner of TJ,s Welding

On Wednesday, December 15, 2021, 02:48:09 PM PST, Heather Olson <holson@fairbankslaw.com> wrote:

Yes, we have received discovery and an offer in Jay's case. I have him set up to talk to Jason on Friday to go through everything and decide on a game plan.

Heather Olson

Legal Assistant for Jason Weiner and Associates

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Heather Olson

From: Catherine Pousson <alaskafresh1@yahoo.com>
Sent: Wednesday, December 29, 2021 11:39 AM
To: Heather Olson
Subject: Jay A Johnson / Letter

I Beg the Court,
Please be Merciful

My Name is
Catherine S Pousson-Johnson

Jay is My Husband,
He is Much Needed right
Now!

Dad passed in September and both of our Mothers are older and not in good health. Mom did make It Thur X-Mass.

After 9 years with Jay,
I know he is harmless!
He will not even shoot a
bird! Because God made them! Refuses to kill a Deer or a Moose.
Jay, is physically and mentally incapable
Of such a thing!

He's had lower Back Surgery
2019

Right knee Surgery
2020

AND
Right Shoulder Surgery
2021

Still healing from last surgery and in lot of pain when arrested!

Jay is a Good person
I have watched Jay cook food for other people when they had none.
I have watch Jay pay other people's rent when they could not pay it.
My husband is a good Man
and very Kind.

Alcohol and Politics
Don't Mix Well.
Please don't judge him from this voice mail

Our Family and I Need him
And his help badly.
Please send him back to us
Please.

Thank you for your time,
Catherine

Sent from Yahoo Mail on Android